

ROBBINS GELLER RUDMAN  
& DOWD LLP  
SHAWN A. WILLIAMS (213113)  
SUNNY S. SARKIS (258073)  
Post Montgomery Center  
One Montgomery Street, Suite 1800  
San Francisco, CA 94104  
Telephone: 415/288-4545  
415/288-4534 (fax)  
shawnw@rgrdlaw.com  
ssarkis@rgrdlaw.com  
– and –

JULIE A. KEARNS (246949)  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)  
jkearns@rgrdlaw.com

Lead Counsel for Plaintiffs

[Additional counsel appear on signature page.]

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

|  |   |                                 |
|--|---|---------------------------------|
| CURTIS AND CHARLOTTE WESTLEY,            | ) | No. C11-02448-EMC               |
| Individually and on Behalf of All Others | ) | and related consolidated action |
| Similarly Situated,                      | ) | (Lead Case No. C11-3176-EMC)    |
|  | ) | (Derivative Action)             |

Plaintiffs,

vs.

OCLARO, INC., et al.,

Defendants.

In re OCLARO, INC. DERIVATIVE  
LITIGATION

Lead Case No. C11-3176-EMC  
(Derivative Action)

This Document Relates To:

*Westley v. Oclaro, Inc., et al.,*  
C11-02448-EMC.

STIPULATION AND ~~PROPOSED~~ ORDER CONTINUING CASE MANAGEMENT  
CONFERENCE AND EXTENDING DISCOVERY STAY

1 WHEREAS, on May 19, 2011, plaintiffs Curtis and Charlotte Westley filed a complaint  
2 against defendants Oclaro, Inc., Alain Couder, Jerry Turin and James Haynes (Dkt. No. 1);

3 WHEREAS, on January 30, 2013, the Court entered a minute order, that *inter alia* limited  
4 discovery to the issue of scienter with respect to certain statements and set a discovery cutoff, a  
5 deadline for the filing of the Third Amended Complaint (“TAC”), briefing schedules in connection  
6 with defendants’ motion to dismiss the TAC and defendants’ motion for summary judgment with  
7 respect to scienter for the May and June statements, and an oral argument date for the motion for  
8 summary judgment (Dkt. No. 111);

9 WHEREAS, on May 2, 2013, the Court approved the parties’ joint stipulation to stay all  
10 proceedings and deadlines in this action, with the exception of proceedings related to the motion to  
11 dismiss the TAC, until such time as the Court rendered a decision on defendants’ motion to dismiss  
12 the TAC and modified the Court’s January 30, 2013 minute order to provide the following: (i) the  
13 discovery cutoff shall be five weeks after the Court rules on defendants’ motion to dismiss the TAC;  
14 (ii) defendants’ summary judgment motion shall be filed no later than 14 days after the discovery  
15 cutoff; and (iii) a hearing on the motion shall be set for the first Thursday on which Judge Chen is  
16 available, at 1:30 p.m., which is at least 35 days after the motion for summary judgment is filed (Dkt.  
17 No. 153);

18 WHEREAS, on May 30, 2013, the Court issued an order granting defendants’ motion to  
19 dismiss the TAC with prejudice as to the scienter allegations for alleged misrepresentations in July  
20 and August 2010 (Dkt. No. 157);

21 WHEREAS, on June 17, 2013, the Court approved the parties’ joint stipulation to (i) keep the  
22 Case Management Conference (“CMC”) on calendar, for July 18, 2013 at 10:30 a.m.; (ii) adjourn the  
23 hearing on defendants’ motion for summary judgment; and (iii) continue the stay of all proceedings  
24 and deadlines in this action, including discovery deadlines, until after the CMC and a schedule for  
25 the remainder of the action is in place (Dkt. No. 160).

26 WHEREAS, the parties have met and conferred in good faith concerning the prospects for a  
27 non-litigated resolution of this action, and have scheduled a mediation for August 27, 2013 before  
28 the Honorable Layn R. Phillips (Ret.);

1 WHEREAS, the parties have agreed, subject to the Court's approval, to continue the CMC  
2 presently set for July 18, 2013 at 10:30 a.m., to September 12, 2013 at 10:30 a.m., or another date  
3 thereafter that is convenient to the Court;

4 WHEREAS, the parties have agreed, subject to the Court's approval, that the Joint CMC  
5 Statement shall be due one week prior to the date of the CMC;

6 WHEREAS, the parties have agreed, subject to the Court's approval, to continue the stay of  
7 all proceedings and deadlines in this action, including all discovery deadlines, until after the CMC is  
8 held, and a court-approved schedule for the remainder of the action is in place; and

9 WHEREAS, the parties enter this stipulation, not for the purposes of delay, but to efficiently  
10 manage this case going forward;

11 NOW THEREFORE, the undersigned parties, by and through their counsel of record,  
12 stipulate as follows:

13 1. Subject to the Court's approval, the CMC, currently set for July 18, 2013 at 10:30  
14 a.m., shall be continued to September <sup>19</sup>~~12~~, 2013 at 10:30 a.m., or another date thereafter that is  
15 convenient for the Court.

16 2. The Joint CMC Statement shall be due one week prior to the CMC.

17 3. All proceedings and deadlines, including discovery deadlines, in this action are stayed  
18 until after the CMC is held and a court-approved schedule for the remainder of the action is in place.

19  
20 DATED: July 11, 2013

ROBBINS GELLER RUDMAN  
& DOWD LLP  
SHAWN A. WILLIAMS  
SUNNY S. SARKIS

21  
22  
23  
24 s/ Shawn A. Williams  
SHAWN A. WILLIAMS

25 Post Montgomery Center  
26 One Montgomery Street, Suite 1800  
27 San Francisco, CA 94104  
28 Telephone: 415/288-4545  
415/288-4534 (fax)

1 ROBBINS GELLER RUDMAN  
2 & DOWD LLP  
3 JULIE A. KEARNS  
4 655 West Broadway, Suite 1900  
5 San Diego, CA 92101  
6 Telephone: 619/231-1058  
7 619/231-7423 (fax)

8 Lead Counsel for Plaintiffs

9 ROBERT M. CHEVERIE & ASSOCIATES  
10 GREGORY S. CAMPORA  
11 Commerce Center One  
12 333 E. River Drive, Suite 101  
13 East Hartford, CT 06108  
14 Telephone: 860/290-9610  
15 860/290-9611 (fax)

16 HOLZER HOLZER & FISTEL, LLC  
17 MICHAEL I. FISTEL, JR.  
18 200 Ashford Center North, Suite 300  
19 Atlanta, GA 30338  
20 Telephone: 770/392-0090  
21 770/392-0029 (fax)

22 DYER & BERENS LLP  
23 ROBERT J. DYER III  
24 JEFFREY A. BERENS  
25 303 East 17th Avenue, Suite 810  
26 Denver, CO 80203  
27 Telephone: 303/861-1764  
28 303/395-0393 (fax)

Additional Counsel for Plaintiff

DATED: July 11, 2013

ALSTON & BIRD LLP  
GIDON M. CAINE

\_\_\_\_\_  
s/ Gidon M. Caine  
GIDON M. CAINE

275 Middlefield Road, Suite 150  
Menlo Park, CA 94025-4008  
Telephone: 650/838-2000  
650/838-2001 (fax)

ALSTON & BIRD LLP  
JESSICA P. CORLEY (admitted *pro hac vice*)  
ANDREW T. SUMNER (admitted *pro hac vice*)  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
Telephone: 404/881-7000  
404/881-7777 (fax)  
jessica.corley@alston.com  
andy.sumner@alston.com

Attorneys for Defendants

**Certificate Pursuant to Local Rule 5-1(i)(3)**

I, Shawn A. Williams, am the ECF User whose identification and password are being used to file the STIPULATION AND [PROPOSED] ORDER CONTINUING CASE MANAGEMENT CONFERENCE AND EXTENDING DISCOVERY STAY. In compliance with Local Rule 5-1(i)(3), I hereby attest that Gidon M. Caine has concurred in this filing.

Dated: July 11, 2013

\_\_\_\_\_  
s/ Shawn A. Williams  
SHAWN A. WILLIAMS

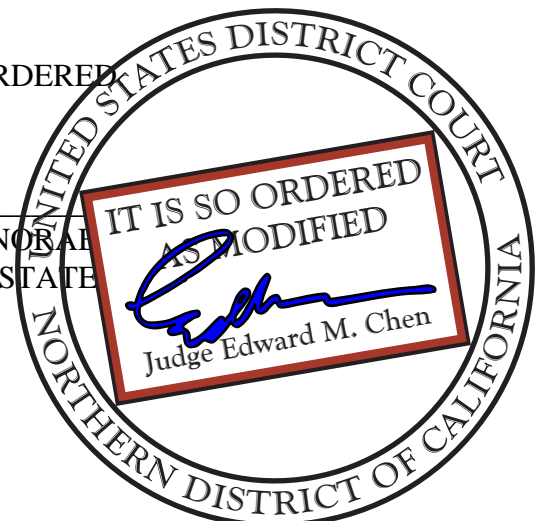
\* \* \*

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED

DATED: 7/15/13 \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE  
UNITED STATES



CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2013, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 11, 2013.

s/ Shawn A. Williams  
SHAWN A. WILLIAMS

ROBBINS GELLER RUDMAN  
& DOWD LLP  
Post Montgomery Center  
One Montgomery Street, Suite 1800  
San Francisco, CA 94104  
Telephone: 415/288-4545  
415/288-4534 (fax)  
E-mail: shawnw@rgrdlaw.com

## Mailing Information for a Case 3:11-cv-02448-EMC

### Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Gidon M. Caine**  
gidon.caine@alston.com,joe.tully@alston.com,kathy.kirk@alston.com,chuck.mattson@alston.com
- **Jessica Perry Corley**  
jessica.corley@alston.com
- **Michael I. Fistel, Jr**  
mfistel@holzerlaw.com
- **Frank James Johnson**  
frankj@johnsonandweaver.com,paralegal@johnsonandweaver.com,shawnf@johnsonandweaver.com,ceciliar@johnsonandweaver.com
- **Julie A. Kearns**  
jkearns@rgrdlaw.com,e\_file\_sd@rgrdlaw.com,e\_file\_sf@rgrdlaw.com
- **Tina Mehr**  
tina.mehr@alston.com
- **Brian O. O'Mara**  
bo'mara@csgrr.com,e\_file\_sd@rgrdlaw.com,e\_file\_sf@rgrdlaw.com
- **Mark Punzalan**  
markp@punzalanlaw.com,office@punzalanlaw.com
- **Darren Jay Robbins**  
e\_file\_sd@rgrdlaw.com
- **Sunny September Sarkis**  
Ssarkis@rgrdlaw.com
- **Andrew Townsend Sumner**  
andy.sumner@alston.com
- **Joseph G Tully**  
joe.tully@alston.com
- **David Conrad Walton**  
davew@rgrdlaw.com
- **Shawn A. Williams**  
shawnw@rgrdlaw.com,khuang@rgrdlaw.com,erinj@rgrdlaw.com,e\_file\_sd@rgrdlaw.com,e\_file\_sf@rgrdlaw.com

### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

**Robert J. Dyer, III**  
Dyer & Berens LLP  
303 East 17th Avenue, Suite 300  
Denver, CO 80203